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Federal Court judgment: Justice Canada must ensure full respect for language rights

After the important judgment handed down by the Federal Court of Canada on March 23, 2001, it is now clear that the federal government can no longer avoid its linguistic obligations by transferring or delegating its responsibilities for the provision of service to Canadians to other levels of government.

The Commissioner of Official Languages, Dr. Dyane Adam, and the President of the Association des juristes d'expression française de l'Ontario (AJEFO), Peter Annis, welcomed the judgment of Mr. Justice Pierre Blais in the case of the *Contraventions Act*.

The judgment finds in favour of the Commissioner of Official Languages, who had applied, with the consent of AJEFO, for a remedy against Justice Canada following the devolution to the provinces and territories and their municipalities of responsibilities for the prosecution of non-criminal federal offences.

Mr. Justice Blais concluded that the Department had contravened Part IV of the *Official Languages Act* concerning communications and the provision of services. In addition, the Department also contravened sections 16 and 20 of the *Canadian Charter of Rights and Freedoms* by not ensuring that the linguistic guarantees set out in sections 530 and 530.1 of the *Criminal Code* concerning the judicial processing of prosecutions were fully respected by the province of Ontario and the municipalities.

For having infringed language rights with respect to the status and use of the two official languages in the province of Ontario, the federal government is ordered, within one year, to take the legislative, regulatory and other measures required to ensure that "the quasi-constitutional language rights of all Canadian citizens are guaranteed by any measure taken to arrange for the implementation of the *Contraventions Act*." In the words of the Commissioner of Official Languages, "This judgment will have important repercussions across Canada because the Department of Justice will have to review all the agreements entered into with provincial and municipal authorities to ensure that the language rights guaranteed by the *Official Languages Act* and the *Criminal Code* are clearly mentioned and respected." But, above all, she said, "This judgment raises the more fundamental question of whether the government should not review all the agreements entered into as part of government transformations."

For his part, the President of AJEFO, Peter Annis, said that the reasons for the decision show that the status of French in Ontario is precarious, although it is an official language of the courts. He feels that the members of the Legislative Assembly of Ontario should accept the fact that the language rights of Ontarians must be constitutionally protected.

Mr. Justice Blais did not rule, for jurisdictional reasons, on the federal government's failure to fulfil its obligation to enhance the vitality of the linguistic minority communities and support their development, pursuant to section 41 of the *Official Languages Act*. He stated, however, that sections 2 and 41 of the *Act* send "a clear message to all Canadians regarding the equality of status of the two official languages of Canada and the firm intention of the government to strive to achieve the ultimate goal of equality of

status between the two languages."

The full text of Mr. Justice Blais' decision is available may be downloaded from the Office of the Commissioner of Official Languages and the **AJEFO** ● Web sites.

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